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7 Attorneys for Defendant  
8 VARIAN MEDICAL SYSTEMS, INC.

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 UNIVERSITY OF PITTSBURGH OF THE  
13 COMMONWEALTH SYSTEM OF HIGHER  
14 EDUCATION d/b/a UNIVERSITY OF  
PITTSBURGH, a Pennsylvania non-profit  
15 corporation (educational),

16 Plaintiff,

17 v.

18 VARIAN MEDICAL SYSTEMS, INC., a  
Delaware corporation,

19 Defendant.  
20

Case No. CV 08 2973

**NOTICE OF PENDENCY OF OTHER  
ACTION OR PROCEEDING**

Related Case:

Case 2:07-cv-00491-AJS

USDC, Western District of Pennsylvania

21 Pursuant to Civil L.R. 3-13, Defendant Varian Medical Systems, Inc. ("Varian") hereby  
22 notifies the Court of the following action in the United States District Court, Western District of  
23 Pennsylvania:

24 *UNIVERSITY OF PITTSBURGH, Plaintiff, v. VARIAN MEDICAL SYSTEMS, INC.,*  
25 *Defendant*, Case No. 2:07-cv-00491-AJS, filed on April 13, 2007.

26 The Western District of Pennsylvania action involves the same parties as the above-  
27 captioned action and is based on the same patents, U.S. Patent Nos. 5,727,554 and 5,784,431.

28 The complaints in the two actions assert identical causes of action under 35 U.S.C. § 271.

1 On November 21, 2007, Varian filed a summary judgment motion for lack of standing in  
2 the Western District of Pennsylvania action.

3 On March 10, 2008, special master Donald E. Ziegler recommended that summary  
4 judgment be granted. On April 30, 2008, District Court Judge Arthur J. Schwab partially adopted  
5 the recommendation, granted Varian's summary judgment motion and dismissed the action with  
6 prejudice.

7 On June 16, 2008, Judge Schwab entered judgment in favor of Varian and dismissed  
8 Plaintiff's claims with prejudice. Varian's counterclaims for a declaratory judgment of non-  
9 infringement and invalidity were dismissed without prejudice. On the same day, Plaintiff filed a  
10 Notice of Appeal in the Western District of Pennsylvania action, and also filed the complaint in  
11 the above-captioned action.

12  
13 Dated: June 20, 2008.

14 ORRICK, HERRINGTON & SUTCLIFFE LLP

15  
16 By: /s/ Zheng Liu  
17 Zheng Liu  
18 Attorneys for Defendant  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the NOTICE OF PENDENCY OF OTHER ACTION OR PROCEEDING was served upon the University of Pittsburgh, through its counsel, via:

_____	Hand-Delivery
_____	Facsimile
_____	First Class, US Mail, Postage Prepaid
_____	Certified Mail-Return Receipt Requested
<u>      X      </u>	ECF Electronic Service
_____	Overnight Delivery

at the following addresses:

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Dated: June 20, 2008

/s/ Zheng Liu  
Zheng Liu

OHS West:260459551.2